Supreme Court, U.S.
FILED
98 340 JUN 30 1998
OFFICE OF THE CLERK

No.

In The

Supreme Court of the United States

October Term, 1997

Charles E. McManama, petitioner

vs.

Raymond R. Bagley Jr., et al

On petition for writ of certiorari

To the United States Court of Appeals for the Ninth Circuit

On the judgment of Honorable Judges Fletcher, Beezer and Leavy, June 4

PETITION FOR WRIT OF CERTIORARI

Charles E. McManama, pro se
27484 S.E. Paul Bunyan Lane
Eagle Creek, Oregon 97022
telephone (503) 637 3154

June 25, 1998

Questions presented for review:

In the matter of judicial immunity vs. the United States Constitution.

1. Is it not true that in Lucas vs. South Carolina Coastal Commission that the United States Supreme Court declared, "Ipse dixit is unconstitutional."?

2. Is it not true that, in this same declaration, all courts not conducted according to the traditional rules of jurisprudence in establishing findings, commit an act of ipse dixit; that a kangaroo court is ipse dixit?

3. Is it not true that when Lucas vs. South Carolina Coastal Commission is cited as an authority, it brings an essential meaning into a complaint; that it is not merely as judicial adversaries would like to interpret [simply, that a petitioner is merely "not satisfied with a judgment"]; thereby contending a judgment founded on ipse dixit is a valid judgment, even though such is <u>expressly</u> said <u>invalid</u> by the United States Supreme Court?

4. Is it not true that the present petitioner is equal under the law to Lucas of Lucas vs. South Carolina Coastal Commission?

5. Then, why do Circuit Judges Fletcher, Beezer, and Leavy not comply with this United States Supreme Court edict: "Ipse dixit is unconstitutional."?

6. Is it not true that any judge, federal or State, who consciously violates the United States Constitution is guilty of the crime of treason against the United States?

7. How can judicial immunity become so sacred it can be allowed to violate the United States Constitution?

8. Would not the judges that over-rode the United States Supreme court edict [Ipse dixit is unconstitutional.] have committed an act of treason, in lieu of any interceding edicts?

9. Should not such judges be demoted from positions of responsibility, in addition to suffering sanctions for the crime of treason, if convicted?

10. Or, are they above the law as now is posed? [Popular conception has long held that ipse dixit is unconstitutional.]

11. Does judicial immunity protect judges from prosecution for acts in the course of arriving at their decision?

12. Then, how can they be immune to any prosecution for denying civil rights under the United States Constitution?

13. Will the United States Supreme Court order criminal trial under the laws for treason for State and federal judges who do not serve the United States Constitution when so sworn?

14. As long as such judges are in office, how can the law be served?

parties to the proceeding:

opposing counsel [member of the bar of the United States Supreme Court] representing Bagley, et al, upon which service is to be made:

Michael D. Reynolds, Solicitor General
400 Justice Building
Salem, Oregon 97310

representing respondents:
Raymond R. Bagley, Jr.; Wallace P. Carson, Jr.; W. Michael Gillette; George Van Hoomissen; Edward N. Fadely; Theodore R. Kulongoski; Susan P. Graber; Robert D. Durham

petitioner:
Charles E. McManama, pro se
27484 S.E. Paul Bunyan Lane
Eagle Creek, Oregon 97022
telephone (503) 637 3154

opinion rendered:

United States Court of Appeals judges had the opinion your petitioner "alleged [prior] judges erroneously ruled on his State court actions, were dishonest and violated the public trust", [as if lawful]. (See appendix.)

a concise statement of the grounds on which jurisdiction is invoked:

Memorandum of findings on appeal filed March 19, 1998. Appeal rehearing denied, filed June 4, 1998. Filed under Rule 11.

Jurisdiction exists by that which is implicit in Article III and in the Fifth and Fourteenth Amendments of the United States Constitution

petitioner hereby prays:

The petitioner hereby prays that the Supreme Court of the United States assert its authority and opinion to preserve the integrity of civil rights for citizens in the United States; that the superior law as set forth in the Fifth and Fourteenth Amendments, guaranteeing due process of law, be implemented, over-riding the lesser doctrine of judicial immunity.

a concise 'statement of the case' containing the facts material to the consideration of the questions presented:

1. Your petitioner was dismissed from the United States District Court for the District of Oregon because of judicial immunity; State judges had committed serious breaches of jurisprudence, including issuing a politically motivated judgment in which the plaintiff didn't carry a burden of proof, and the failure to consider this breach in the Oregon Supreme Court. Federal jurisdiction in this matter resides in the violation of 14th Amendment right to due process.

2. The petitioner was subsequently dismissed from the United States Court of Appeals for the Ninth Circuit because of the same doctrine of judicial immunity, in spite of the requirements of the United States Constitution which should have superseded the doctrine of judicial immunity, simply by virtue of the fact it is the supreme law.

direct and concise argument amplifying the reason relied upon for allowance of the writ:

When the petitioner was a school child, 65 years ago, the first thing the school children did each day was to pledge allegiance to the flag; "one nation, indivisible, with liberty and justice for all." So far, justice has been a great disappointment. As a consequence, the petitioner is going to the court of last resort.

Respectfully submitted,

Charles E. McManama
27484 S.E. Paul Bunyan Lane
Eagle Creek, Oregon 97022
telephone (503) 637 3154

APPENDIX
opinion rendered:

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 97-35896 Charles E. McManama vs. Raymond R. Bagley, Jr.; Wallace P. Carson, Jr.; W. Michael Gillette; George Van Hoomissen; Edward N. Fadely; Theodore R. Kulongoski; Susan P. Graber; Robert D. Durham

Opinion: McManama "alleged that the judges erroneously ruled...were dishonest, and violated the public trust. We have reviewed the record and affirm for the reasons set forth by the District Court in its 8 / 21 / 97 order dismissing the action" This memorandum of affirmation was filed March 19, 1998 Cathy A. Catterson, Clerk U. S. Court of Appeals

The underlying order to dismiss of 8 / 21 / 97:

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

No. 97-CV1184-HA Charles E. McManama vs. Raymond R. Bagley, Jr.; Wallace P. Carson, Jr.; W. Michael Gillette; George Van Hoomissen; Edward N. Fadely; Theodore R. Kulongoski; Susan P. Graber; Robert D. Durham

Damages?

It is well settled that judges are absolutely immune from liability for damages caused by judicial acts performed in their judicial capacity. Mirles v Waco 502 U.S. 9, 10-11, 112 S. Ct. 286, 287-88 (1991), Forrester v. White 484 U.S. 219, 225-26 (1987) Stump v. Sparkman, 435 U.S. at 356-57, Shucker v. Rockwood 846 F. 21202, 1204 (9th Cir.). cert. denied, 488 U.S. 995 (1988) A judge lacks immunity only when performing an act that is not "judicial" in nature, or when acting "in clear absence of all jurisdiction." Stump. 435 U.S.

It does not appear from the face of the complaint that the

defendants acted in anything other than their judicial capacity, or that they acted in clear absence of jurisdiction. Therefore, the defendants are absolutely immune from liability for damages. Accordingly, the plaintiff's claims for damages are dismissed.

[Does this mean judges can violate the fundamental rules of jurisprudence with impunity. It violates the United States Constitution, doesn't it? Or does it have room for judges who would be criminals; to hide behind absolute judicial immunity?]

Declaratory relief?

Plaintiff seeks "relief from Clackamas County's judgment by the court's declaring procedure and effects to be in violation of the Fourteenth Amendment of the United States Constitution, making said judgment unlawful." Judicial immunity does not bar a claim for declaratory or prospective injunctive relief. Pulliam v. Allen 466 U.S. 522, 541-42 (1984)

This court possesses "subject matter jurisdiction over general challenges to rules promulgated by state courts in nonjudicial proceedings which do not require a review of the final state judgment in a particular case." Allah v. Superior Court of California 871 F. 2d 887, 890 (9th Cir. 1989).

However, it is well settled that this court lacks jurisdiction "over challenges to state court decisions in particular cases arising out of judicial proceedings even if those challenges allege that the state court's action was unconstitutional." District of Columbia Court of Appeals v. Feldman 460 U.S. 462, 486 (1982) Allah 871 F. 2d at 890-91 World wide Church of God v. McNair 805 F. 2d 888, 890-91 (9th Cir. 1986)

Therefore, this court lacks jurisdiction to grant the requested declaratory relief. Accordingly the plaintiff's complaint is dismissed.

[Does challenge of procedure mean challenge of decision. Ipse dixit is unconstitutional, is it not?]

This order was filed 97 Aug. 21 PM 12:17 Clerk, U.S. District Court District of Oregon Portland, Oregon

EXCERPTS FROM BOOK

The petitioner is writing a book of this and other persons and events, titled: ...FOR LIBERTY AND JUSTICE...; subtitled, OREGON COURTS: "JUST AS CROOKED AS THEY CAN GET!" The pertinent excerpt is as follows:

Plaintiff's decision without burden of proof

violation of due process

McManama's consideration for the Clackamas County's attorney's personal welfare had been a mistake. The judge subsequently asked the County to prepare the judgment, without their having proved their case; apparently not wanting to make a judgment that could be interpreted as declaring a series of laws enforcing a highly touted policy of the State as being unconstitutional. The judge was thereby apparently willing to violate his oath of office, Oregon's judicial canons, and duty to citizens who elected him [normally considered a sacred trust]. When this occurred, McManama moved that the information upon which he was making the proposed judgment be put before the court for debate. That motion was denied, proving the court had prejudice from the very beginning. To illustrate, in the initial hearing, the judge asked how the county was to enforce its laws. It was presumed to have been a reflexive question, since the constitutionality of such enforcement was the very issue in the court **and already known as such.** But, instead, his question was apparently rooted in prejudice. Crooked court? How much proof of it is necessary? In terms of what was submitted, McManama had rightfully won the case. The judge might have had overcoming arguments, but he decided not to allow these to be exposed to

argument. A person is inclined to ask, if judgments are to be arbitrary, why have a trial? The trial and its debate was supposed to have been the determining factor.

portents

Concurrently, the citizen wrote letters to the judge, corroborating his motions. One of these letters included a sample complaint in the United States District Court that might be drawn against him if he didn't rule according to the trial. But, the judge, probably convinced he had judicial immunity, even to deny due process of law, ignored this threat [which actually did occur, later].

Sudden tragedy

sudden tragedy / effects

McManama, having finished his course in the issues, awaited judgment, which never came. Suddenly, tragedy descended; he suffered a paralyzing stroke. His entire left side was paralyzed. Luckily, his mentality was still largely intact. After 90 days, according to uniform rules, he wrote the Chief Justice of the Oregon Supreme Court, to learn the judgment had been rendered against him. It was then more than 30 days after the judgment, which is the normal time allowable for appeal. Nevertheless, he did appeal, thinking the 30 day limitation was a court rule that could be waived because of circumstance. It proved to be statutory instead, possibly unconstitutional to someone interested in contesting it. McManama wasn't interested in proving any such thing, feeling it would end up in the Oregon Supreme Court, anyway; because the question posed was Constitutional, which, [by its nature], the court would be forced to address. But, the court didn't think so; apparently having the same political disease as the judge of the lower court, more willing to violate oath of office, Oregon's judicial canons, and sacred duty to

those who elected them. So, after having exhausted all judicial remedy in that court after petition for reconsideration of "consideration denied", a few months later, McManama included each member of the Oregon Supreme Court in a civil rights complaint in the United States District Court for the District of Oregon for failing to provide due process of law [by virtue of their coincidentally violating oath of office]. The judge of the lower court was also included in the complaint. This is now in the United States Supreme Court awaiting action. If this prosecution is thwarted, it will be strong testimony as to the crookedness in the federal courts. Judges need to be protected from prosecution for their decisions; but, if they violate the fundamental principles of jurisprudence in the process, how can they properly escape liability? McManama intends to find out. Remedy may be exhausted in a Petition for a Writ of Certiorari in the United States Supreme Court.